

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALIK JETER, as Personal Representative
of the ESTATE OF ANDREW ANTOINE JETER,

Plaintiff,

Case No. 18-cv-12338
Hon. Matthew F. Leitman

v.

MACOMB COUNTY, *et al.*,

Defendants.

**ORDER REGARDING DEFENDANTS HOLMES, BURKE,
MADEJ, AND FRANKS' MOTION TO DISMISS (ECF #12)
AND GRANTING PLAINTIFF LEAVE TO AMEND**

On July 26, 2017, Plaintiff Malik Jeter, as the personal representative of the Estate of Andrew Antoine Jeter, filed this civil-rights action pursuant to 42 U.S.C. § 1983 against Macomb County and employees of Macomb County, including police deputies Eric Holmes, James Burke, and Amy Franks. (*See* Compl., ECF #1.) Malik Jeter alleges that Holmes, Burke, and Franks worked at the Macomb County Jail and that they violated Andrew Jeter's civil rights when they "ignore[d] [his] need for medical treatment despite [his] pleas for help." (*Id.* at ¶29, Pg. ID 7.)

On September 4, 2018, Holmes, Burke, and Franks filed a motion to dismiss. (*See* ECF #12.) In the motion, Holmes, Burke, and Franks argue that the Complaint does not plead sufficiently detailed or specific factual allegations and is, therefore, defective for failing to state a plausible claim under the Supreme Court's decisions in

Ashcroft v. Iqbal, 556 U.S. 662 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). (See *id.* at Pg. ID 77-82.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will afford Jeter an opportunity to remedy the purported pleading defects by granting Jeter leave to file an Amended Complaint. Jeter must file any Amended Complaint by **September 19, 2018**, and it must state a “plausible claim for relief” by pleading specific factual allegations that, if true, would “plausibly give rise to an entitlement to relief.” *Iqbal*, 556 U.S. at 680. If Jeter timely files an Amended Complaint, the Court will deny, without prejudice, the current pending motion to dismiss as moot. In that event, all Defendants shall answer or otherwise respond to the Amended Complaint by **October 10, 2018**.

The Court expects Jeter to take full advantage of the opportunity to amend his Complaint by adding specific and detailed factual allegations to support his claims. The Court does not anticipate allowing Jeter a second opportunity to amend his Complaint to add factual allegations that he could include in his Amended Complaint.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: September 5, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 5, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(810) 341-9764